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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,821	09/04/2003	Jerald C. Seelig	619.493	7159
21707 7590 03/19/2009 IAN F. BURNS & ASSOCIATES 4790 Caughlin Parkway #701 RENO, NV 89519-0907				
EXAMINER WILLIAMS, ROSS A				
ART UNIT 3714		PAPER NUMBER		
NOTIFICATION DATE 03/19/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/655,821

Applicant(s)

SEELIG ET AL.

Examiner

ROSS A. WILLIAMS

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 1-12, 42-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-824)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 7/15/07, 8/3/04, 12/18/03

DETAILED ACTION

Election/Restrictions

Claims 1 - 12, 42 - 46 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 1/5/09.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 13 - 27, 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bansemer (US 6,780,103).

As per claims 13 and 20, Bansemer discloses a gaming device that comprises:

(A) a random number generator; (Bansemer 2:59 – 3: 11)

(B) a skill game device configured to allow a game player to play a game, the skill game having a skill game outcome, the skill game outcome being shown to the game player, wherein the skill game outcome may be influenced by the player; (Bansemer 3:6 – 11)

(C) a processor in communication with the random number generator (Bansemer Fig 2), the processor configured to randomly determine a prize (Bansemer 3:15 – 28).

Bansemer does not specifically disclose the *“the processor further adapted to calculate a multiplier, the multiplier being the quotient of the prize divided by the skill game outcome; and (D) a display in communication with the processor and the skill game device, the display being adapted to show the prize and the multiplier.*

However Bansemer does teach that the purpose of the invention is to give the player the illusion of playing a skill game wherein the player thinks the outcome of the skill game has a direct impact upon the final reward of the skill game. However, Bansemer teaches that the outcome of the skill game is predetermined. Thus the player will not be able to achieve a higher score or award than the already predetermined (Bansemer 13:21 - 32). This score is later displayed to the player.

It would be obvious to one of ordinary skill in art to take the teachings of Bansemer to further specify that the calculation of a modifier such as a multiplier that is the quotient of the prize of the game divided by the skill game outcome (i.e. # skill game shots, tries etc). This would be obvious due to the fact that Bansemer discloses that the game award for playing the skill based game is already predetermined randomly by the game processor. Since the final award outcome is already randomly predetermined, it

would be obvious to one of ordinary skill in the art to use any type of formula or algorithm to give the player the illusion that the score is actually determined by some action of their's in the skill based game. This would give the player the feeling of being able to control the final award outcome despite the game machine in reality randomly predetermining the game outcome in advance.

As per claim 14, wherein the skill game device comprises a target game, the skill game outcome being at least partially based on the number of times the game player hits the target (Bansemer 9:20 – 29).

As per claim 15, the target having a plurality of value areas having a plurality of values, wherein the skill game outcome is based on value of the area of the target the player hits (Bansemer 9:20 – 30).

As per claim 16, wherein the skill game device comprises a basketball game, the skill game outcome being at least partially determined by the number of times the game player makes a basket (Bansemer 8:16 - 31).

As per claim 17, wherein the skill game device comprises a baseball game, the baseball game comprises a home run area, the skill game outcome being at least partially determined by the number of times the game player hits a home run (Bansemer 8:16 – 31).

As per claim 18, wherein the skill game device comprises a crane game, the crane game comprising a crane an at least one object that may be picked up by the crane, the skill game outcome being at least partially determined by an indicia shown on an object that is picked up by the crane (Bansemer 8:16 – 31).

As per claim 19, wherein the skill game device comprises a video display (Bansemer 7:2 -3).

As per claim 21 further comprising a sensor in communication with the processor, the sensor being adapted to sense the skill game outcome (The game can include any electromechanical means to test the player's motor skills thus a sensor of some sort will obviously be included to sense the players shots) (Bansemer 8:16 - 31).

As per claim 22 - 25, Bansemer does not specifically disclose "wherein the sensor comprises an optical sensor, wherein the sensor comprises an inductance sensor, wherein the frequency sensor comprises a radio frequency identification tag sensor." However Bansemer teaches that the game can be an electromechanical game wherein the player can test their motor skills. It would be obvious to use any type of sensor to determine when the player has made a successful shot or not on the game of skill.

As per claim 26, further comprising an input device in communication with the skill game device, the input device being adapted to allow the game player to influence the skill game outcome (Bansemer 8:16 – 40).

As per claim 27, wherein the game player is presented with the illusion that that game player is influencing the selection of the prize (Bansemer 8:16 – 40).

As per claim 40, Bansemer discloses:

(A) skill game display means for displaying a skill game to a player, the skill game comprising a skill game outcome; (Bansemer 3:15 – 28).

(B) player input means for allowing the player to influence the skill game outcome; (Bansemer 3:15 – 28).

Bansemer does not specifically disclose the *“(C) processor means for randomly determining a prize and determining a multiplier, the multiplier comprising the quotient of the prize and the skill game outcome; (D) multiplier display means for displaying the multiplier to the player.”*

However Bansemer does teach that the purpose of the invention is to give the player the illusion of playing a skill game wherein the player thinks the outcome of the skill game has a direct impact upon the final reward of the skill game. However, Bansemer teaches that the outcome of the skill game is predetermined. Thus the player will not be able to achieve a higher score or award than the already predetermined (Bansemer 13:21 - 32). This score is later displayed to the player.

It would be obvious to one of ordinary skill in art to take the teachings of Bansemer to further specify that the calculation of a modifier such as a multiplier that is the quotient of the prize of the game divided by the skill game outcome (i.e. # skill game shots, tries etc). This would be obvious due to the fact that Bansemer discloses that the game award for playing the skill based game is already predetermined randomly by the game processor. Since the final award outcome is already randomly predetermined, it would be obvious to one of ordinary skill in the art to use any type of formula or algorithm to give the player the illusion that the score is actually determined by some action of their's in the skill based game. This would give the player the feeling of being

able to control the final award outcome despite the game machine in reality randomly predetermining the game outcome in advance.

As per claim 41, wherein the skill game display means comprises a variety of indicator means for displaying indicia to the player and a selection means for selecting an indicator means, the selection means in communication with, and controllable by, the player input means (Bansemer 8:16 – 31).

Claims 28 – 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bansemer (US 6,780,103) in view of Bansemer (2002/0049082).

As per claim 28, Bansemer '103 teaches

(A) at least one ball within the skill game device; (Bansemer 8:16 – 40).

However, Bansemer '103 does not specifically teach

(B) a hoop moveably positioned within the skill game device, the hoop configured to allow a ball to pass through the hoop; and

(C) a player input device in communication with the hoop, the player input device configured to allow a player to selectively position the hoop.

“wherein the hoop further comprises a net” [claim 29].

“further comprising a ball dispenser located within the skill game device, the ball dispenser configured to project balls above the hoop.” [claim 30]

“further comprising a ball return mechanism adapted to return balls dispensed from the ball dispenser back to the ball dispenser.” [claim 31]

"further comprising a plurality of balls, wherein at least a portion of the balls may influence the skill game outcome, wherein at least a portion of the balls comprise identification means for identifying the ball" [claim 32].

"further comprising a sensor area comprising a sensor, wherein the identity of balls comprising identification means may be ascertained" [claim 33]

Bansemmer '082 discloses the use of a skill based game wherein the game includes a hoop and ball, wherein the player attempts to shoot basketballs into a hoop (Bansemmer "082 par 0074 - 0075).

It would be obvious to modify Bansemmer'103 in view of Bansemmer '082 to specify a basketball skill game to include a hoop mechanism and sensor to track the amount of shots that a player has made. This would be obvious due to the fact that Bansemmer '103 specifically states at least one skill based game may be a basketball game.

As per claim 34,

(A) determining a prize; (Bansemmer 3:15 – 28).

(B) allowing a player to use skill to determine a skill game outcome; (Bansemmer 3:6-11).

(E) awarding the prize to the player, wherein it appears that the prize is the product of the skill game outcome and the multiplier. (Bansemmer 3:15 – 28).

Bansemmer does not specifically disclose:

(C) dividing the prize by the skill game outcome to determine a multiplier;

(D) displaying the multiplier to the player; and

However Bansemer does teach that the purpose of the invention is to give the player the illusion of playing a skill game wherein the player thinks the outcome of the skill game has a direct impact upon the final reward of the skill game. However, Bansemer teaches that the outcome of the skill game is predetermined. Thus the player will not be able to achieve a higher score or award than the already predetermined (Bansemer 13:21 - 32). This score is later displayed to the player.

It would be obvious to one of ordinary skill in art to take the teachings of Bansemer to further specify that the calculation of a modifier such as a multiplier that is the quotient of the prize of the game divided by the skill game outcome (i.e. # skill game shots, tries etc). This would be obvious due to the fact that Bansemer discloses that the game award for playing the skill based game is already predetermined randomly by the game processor. Since the final award outcome is already randomly predetermined, it would be obvious to one of ordinary skill in the art to use any type of formula or algorithm to give the player the illusion that the score is actually determined by some action of their's in the skill based game. This would give the player the feeling of being able to control the final award outcome despite the game machine in reality randomly predetermining the game outcome in advance.

As per claim 35, wherein the prize is randomly determined (Bansemer 3:15 – 28).

As per claim 36, wherein the prize is hidden from the player until after the player uses the player's skill to obtain a skill game outcome (Bansemer 3:15 – 28).

As per claim 37, (A) providing a display device, the display device containing at least one display ball; and (B) providing an input device, the input device being configured to allow a player to select at least one display ball (Bansemer 8:16 – 31).

As per claim 38, wherein the display ball comprises an indicia affixed on the display ball, the method further comprising allowing the player to manipulate the input device to select the display ball (Bansemer discloses bottles and turkeys that a player is able to select (i.e. display objects or balls)) (Bansemer Fig 4, 6).

As per claim 39, further comprising providing a game apparatus, the game apparatus being configured to allow a player to place a wager and play a game of chance, the game apparatus also being configured to produce a bonus event, wherein steps (A)-(E) occur during the bonus event (Bansemer 13:61 – 14:5).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROSS A. WILLIAMS whose telephone number is 571-272-5911. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ronald Laneau can be reached on 571-272-6784. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. A. W./
Examiner, Art Unit 3714

/Ronald Laneau/
Primary Examiner, Art Unit 3714
03/13/09